IN THE HIGH COURT OF JUDICATURE AT BILASPUR

WRIT PETITION NO. 5018 OF 2004

PETITIONER

Smt. Rajeshwari Baitharu, aged about 45 years, wife of Shri Narhari Baitharu, Assistant Teacher, Kanya Aashram, Dimarapal, Distt. Bastar (Chhattisgarh)

VERSUS

RESPONDENTS/

1 State of Chhattisgarh, through : the Secretary, Department of Tribal Welfare, D.K.S. Bhawan, Raipur (Chhattisgarh)

2 Assistant Commissioner, Tribal Welfare Department, District Bastar (C.G.)

3 Secretary, Maata Rukhmani Seva Sansthan, Dimaripal, Distt. Bastar (Chhattisgarh)

4 Manmohan Yadav, Lower Division Teacher, Chhindgarh, Distt. Dantewada (C.G.)

WRIT PETITION U/A. 226/227 OF THE CONSTITUTION OF INDIA

(35)

HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION NO.5018 OF 2004

Petitioner : Smt. Rajeshwari Baitharu

versus

Respondents : State of Chhattisgarh and others

Present : Mr. B.D.Guru, counsel for the petitioner.
Mr. Utkarsh Verma, Deputy Government Advocate for the State/respondents No.1 and 2.
None appears for respondents No.3 and 4.

ORDER

(Passed on 22nd Day of February, 2007)

The petitioner is working as Assistant Teacher in the establishment of respondent No.3. The petitioner was transferred from Kanya Aashram, Chhindgarh to Kanya Aashram, Dimaripal, vide order dated 23-7-2004. The petitioner joined the new place of posting, but, thereafter, the transfer of the petitioner has been cancelled vide order dated 30-11-2004 (P-1).

2. This Court, vide interim order dated 20-1-2005, directed that the order dated 30-11-2004 (P-1) shall not be given effect to till the next date of hearing in case, the petitioner has taken charge in Kanya Aashram, Dimaripal.

(36)

3. Be that as it may, with the passage of time, this petition has become infructuous as period of transfer is not applicable forever. At this point of time, there is no question to examine the validity of the impugned transfer order. However, the respondents are at liberty to pass appropriate orders keeping in view the public interest and administrative exigency, without insisting on compliance of the impugned transfer order.

4. It is well settled principle of law that transfer is an incident of service and it is for the employer to decided as to where a particular officer/employee be posted keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interfere in the transfer matter and this Court can interfere only in the case of proved *mala fide*, non-competence of authority passing the transfer order and transfer order not being in conformity with the rules and regulations.

5. In view of the above, the writ petition stands disposed of. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Gopal